# Committee on International Relations Subcommittee on International Terrorism and Nonproliferation United States House of Representatives April 28, 2005

Testimony of
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# **A Critical Conference**

Thank you, Chairman Royce, Congressman Sherman and Members of the Committee for the privilege of testifying before you today.

History moves slowly, but when we look back we often can see critical points—events where change was developing in one direction before the event and in a different direction after. Over the next few years, we can anticipate several such tipping points for nonproliferation policy, including Iran, North Korea, the procedures governing the nuclear fuel cycle, and the Review Conference for the Non-Proliferation Treaty (NPT). How we resolve the issues around these events will determine whether we continue to make progress in reducing and eliminating the threats from nuclear weapons, or if we begin a new, dangerous wave of nuclear proliferation.

How can a mere conference, particularly one that is not empowered to actually do anything, make such a critical difference? It is because of the context in which this conference takes place. This review conference comes at a particularly unstable moment. There are growing doubts about the sustainability of the entire nonproliferation regime, about America's commitment to that regime, and even about the legitimacy of U.S. leadership in the world.

The majority of countries feel that the five original nuclear weapons states (the United States, Russia, the United Kingdom, France and China) do not intend to fulfill their end of the NPT bargain—the pledge to eliminate nuclear weapons. That growing conviction erodes the willingness among members of this majority to live up to their side of the bargain—much less to agree to strengthen the regime.

Today's greatest threat stems from the wide availability —which the existing rules allow-of highly enriched uranium (HEU) and plutonium, the fissile materials that are the fuel of nuclear weapons. These materials have become more accessible to terrorists because of

the collapse of the Soviet Union and poor security at nuclear stockpiles in the former Soviet republics and in dozens of other countries.

There is also the danger that new nations could acquire nuclear weapons by exploiting the NPT's failure to define specifically what constitutes the "peaceful" application of nuclear capabilities to which non-nuclear-weapon states commit themselves. As the treaty has been interpreted, countries can acquire technologies that bring them to the very brink of nuclear weapon capability without explicitly violating the agreement, and can then leave the treaty without penalty.

This is a moment where American leadership is essential. American leadership forged the NPT and built it into the most successful security pact in the history of the world. It has not worked perfectly, but before the treaty there were 23 nations that had nuclear weapons, were conducting weapon-related research, or were debating the pursuit of weapons. Today there are only 10, including North Korea and Iran. With the active support of previous U.S. presidents, the treaty has grown into an interlocking network of agreements and controls that provide nations with many of the necessary tools to block the spread of nuclear weapons.

The danger today is that many nations see American support for the treaty waning. They sense antipathy, even hostility, towards the treaty and an unwillingness to consider their views. If the NPT Review Conference ends in disagreement, if it fails to produce a consensus document, many nations will see this as a sign that the regime is unraveling. They may begin to hedge their bets. Nations with ample technological ability to develop nuclear weapons may be reconsidering their political decisions not to do so. India, Pakistan and Israel—the three nuclear weapon states outside the NPT—may become more resistant to coming into conformity with nonproliferation norms and security procedures.

This conference will also play a critical role in resolving the crisis with Iran. The Iranian delegation will come into the conference with one objective: to isolate the United States. They will position themselves as the defender of the right of nations to the peaceful uses of nuclear technology (as guaranteed under Article IV). They may even acknowledge some past "mistakes" in not reporting their nuclear activities, but firmly argue that they are now ready to accept any and all safeguards over their production of fuel for their nuclear reactors. They will say that Iran is willing to play by the rules—and that it is the United States that is trying to unilaterally change the rules and deny developing nations access to the energy source of the future. If the conference ends in discord, and if the United States is seen as responsible for this failure, Iran's strategy will have succeeded. It will become even more difficult to restrain Iran's program or to win majority approval for sanctions or other punitive actions against Iran when this crisis reaches its likely boiling point this summer and fall.

It is vital that the United States come into the conference next week with a high-level commitment to achieving a positive outcome to the conference. Secretary of State Condoleezza Rice should be encouraged to deliver the opening remarks for the United

States. The secretary would be the perfect representative to deliver the U.S. position to the conference and to prepare the ground for the hard work of negotiations in the coming weeks.

Our objective should not be to simply to avoid disaster, or to have a good series of discussions at the conference, or to produce a bland, lowest common denominator final document. None of these will do the job. All of them could, in the coming months, be seen by other nations as a sign that the treaty is eroding. Rather, the conference should be and could be an opportunity for a powerful, positive new charge to revitalize the regime and American leadership of it. It is not too late.

There is no better guidance for the kinds of positive steps that could come out of the conference than those proposed in House Concurrent Resolution 133, sponsored by Representatives Spratt, Leach, Markey, Skelton, Shays, and Tauscher, and now before the Committee. These members recommend that the Congress call on all parties participating in the conference to make good faith efforts to:

- (A) establish more effective controls on critical technologies that can be used to produce materials for nuclear weapons;
- (B) ensure universal adoption of the Additional Protocol to the NPT and support the authority and ability of the International Atomic Energy Agency to inspect and monitor compliance with nonproliferation rules and standards;
- (C) conduct vigorous diplomacy and use collective economic leverage to halt uranium enrichment and other nuclear fuel cycle activities in Iran, and verifiably dismantle North Korea's nuclear weapons capacity;
- (D) conduct diplomacy to address the underlying regional security problems in Northeast Asia, South Asia, and the Middle East, which would facilitate nuclear nonproliferation efforts in those regions;
- (E) accelerate programs to eliminate nuclear weapons, including their fissile material, and to safeguard nuclear weapons-grade fissile materials to the highest standards in order to prevent access by terrorists or other states, decrease and ultimately end the use of highly enriched uranium in civilian reactors, and strengthen national and international export controls and material security measures as required by United Nations Resolution 1540;
- (F) establish procedures to ensure that a state cannot retain access to controlled nuclear materials, equipment, technology, and components acquired for peaceful purposes or avoid sanctions imposed by the United Nations for violations of the NPT by withdrawing from the NPT, whether or not such withdrawal is consistent with Article X of the NPT

- (G) implement the disarmament obligations and commitments of the parties that are related to the NPT by
  - i. further reducing the size of their nuclear stockpiles (including reserves);
  - ii. taking all steps to improve command and control of nuclear weapons in order to eliminate the chances of an accidental or unauthorized use of nuclear weapons;
  - iii. continuing the moratorium on nuclear test explosions, and, for those parties who have not already done so, taking steps to ratify the Comprehensive Test Ban Treaty;
  - iv. pursuing an agreement to verifiably halt the production of fissile materials for weapons;
  - v. reaffirming existing pledges to non-nuclear-weapon state members of the NPT that they will not be subjected to nuclear attack or threats of attack; and
  - vi. undertaking a rigorous and accurate accounting of substrategic nuclear weapons and negotiating an agreement to verifiably reduce such stockpiles.

These recommendations reflect the widespread views of many nonproliferation experts.

I have attached the text of Resolution 133 to my testimony. I have also attached the joint statement of 23 former officials and experts on their recommendations for the NPT conference. I have also attached a short summary of recommendations from the new Carnegie Endowment for International Peace study, *Universal Compliance: A Strategy for Nuclear Security*. Thus study is available in full at: www.ProliferationNews.org.

Thank you again for the opportunity to present these thoughts to the Committee. I look forward to any questions you may have.

# 109th CONGRESS 1st Session H. CON. RES. 133

Stating the policy of the Congress concerning actions to support the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) on the occasion of the Seventh NPT Review Conference

#### IN THE HOUSE OF REPRESENTATIVES

# **April 14, 2005**

Mr. SPRATT (for himself, Mr. LEACH, Mr. MARKEY, Mr. SKELTON, Mr. SHAYS, and Mrs. TAUSCHER) submitted the following concurrent resolution; which was referred to the Committee on International Relations

### CONCURRENT RESOLUTION

Stating the policy of the Congress concerning actions to support the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) on the occasion of the Seventh NPT Review Conference.

Whereas the Treaty on the Non-Proliferation of Nuclear Weapons of 1968 (NPT) codifies one of the most important international security agreements of all time, whereby states without nuclear weapons pledge not to acquire them, while states with nuclear weapons commit to eventually eliminate them, and allowances are made for the peaceful use of nuclear technology by non-nuclear-weapon states under strict and verifiable control;

Whereas the NPT has 188 signatory states;

Whereas the NPT has encouraged many countries to officially abandon nuclear weapons and their nuclear weapons programs, including Argentina, Belarus, Brazil, Kazakhstan, Libya, South Africa, South Korea, Sweden, and Ukraine;

Whereas at the NPT Review and Extension Conference in 1995, the signatory states agreed to extend the NPT indefinitely, to reaffirm the principles and objectives of the NPT, to strengthen the NPT review process, and to implement further specific and practical steps on nonproliferation and disarmament;

Whereas at the NPT Review Conference in 2000, the parties agreed to specific steps toward nonproliferation and disarmament, including entry into force of the Comprehensive Test Ban Treaty, negotiation of a verifiable treaty banning the production of fissile material for weapons purposes, and verifiable reductions of the alert status and number of strategic and substrategic nuclear weapon arsenals;

Whereas President George W. Bush on March 7, 2005, called `the NPT . . . a key legal barrier to nuclear weapons proliferation and . . . a critical contribution to international

security,' and stated that `the United States is firmly committed to its obligations under the NPT';

Whereas in 1995, the United States reaffirmed its negative security assurance to non-nuclear-weapon states of the NPT, stating 'The United States reaffirms that it will not use nuclear weapons against non-nuclear-weapon state-parties to the Treaty on the Non-Proliferation of Nuclear Weapons, except in the case of an invasion or any other attack on the United States, its territories, its armed forces or other troops, its allies, or on a state toward which it has a security commitment carried out, or sustained by such a non-nuclear-weapon state in association or alliance with a nuclear-weapon state.';

Whereas United Nations Security Council Resolution 1540 calls upon all states 'to promote the universal adoption and full implementation, and where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons';

Whereas the United Nations Secretary-General's High-Level Panel on Threats, Challenges and Change concluded that `Almost 60 States currently operate or are constructing nuclear power or research reactors, and at least 40 possess the industrial and scientific infrastructure which would enable them, if they chose, to build nuclear weapons at relatively short notice if the legal and normative constraints of the Treaty regime no longer apply', and it warned that `We are approaching a point at which the erosion of the non-proliferation regime could become irreversible and result in a cascade of proliferation.';

Whereas the threat of terrorists obtaining a nuclear weapon or nuclear materials has grown significantly since the inception of the NPT as a result of inadequate security and accounting at nuclear facilities throughout the former Soviet republics and in dozens of other countries;

Whereas despite the fact that Article IV of the NPT makes clear that access to peaceful nuclear cooperation by non-nuclear-weapon states requires their conduct to be `in conformity with Articles I and II' of the Treaty, some parties to the Treaty have nevertheless abused this right by pursuing nuclear weapons capabilities;

Whereas North Korea ejected international inspectors in 2002 and announced its withdrawal from the NPT in 2003, and has declared its possession of nuclear weapons and its intention to bolster its nuclear arsenal;

Whereas Iran continues to assert its right to pursue nuclear power and related technology, its intent to resume enrichment processes that it has temporarily suspended through an agreement with the European Union, and has not fully cooperated with the ongoing investigation by the International Atomic Energy Agency (IAEA) of its nuclear activities;

Whereas the A.Q. Khan network sold nuclear technology, including a weapon design, to states including Iran, Libya, and North Korea, and represents a new and dangerous form of proliferation;

Whereas the Additional Protocol to the NPT would allow inspections of suspected nuclear facilities in addition to declared nuclear facilities;

Whereas on February 13, 2004, President Bush stated 'Nations that are serious about fighting proliferation will approve and implement the Additional Protocol.';

Whereas the global nuclear threat cannot be reduced without stronger international support and cooperation to achieve universal compliance with tighter nuclear nonproliferation rules and standards;

Whereas sustained leadership from the United States is essential to implement existing legal and political commitments established by the NPT and to realize a more effective global nuclear nonproliferation system; and

Whereas the United States and other countries should pursue a balanced and comprehensive set of initiatives to strengthen the global nuclear nonproliferation system, beginning with the NPT Review Conference in 2005: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring),

#### SECTION 1. SHORT TITLE.

This concurrent resolution may be cited as the `Non-Proliferation Treaty Enhancement Resolution of 2005'.

#### SEC. 2. STATEMENT OF POLICY.

The Congress--

- (1) reaffirms its support for the objectives of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and expresses its support for appropriate measures to strengthen the NPT;
- (2) calls on all parties participating in the Seventh Review Conference on the Treaty on the Non-Proliferation of Nuclear Weapons to make good faith efforts to--
  - (A) establish more effective controls on critical technologies that can be used to produce materials for nuclear weapons;
  - (B) ensure universal adoption of the Additional Protocol to the NPT and support the authority and ability of the International Atomic Energy Agency to inspect and monitor compliance with nonproliferation rules and standards;
  - (C) conduct vigorous diplomacy and use collective economic leverage to halt uranium enrichment and other nuclear fuel cycle activities in Iran, and verifiably dismantle North Korea's nuclear weapons capacity; (D) conduct diplomacy to address the underlying regional security problems in Northeast Asia, South Asia, and the Middle East, which would facilitate nuclear nonproliferation efforts in those regions;

- (E) accelerate programs to eliminate nuclear weapons, including their fissile material, and to safeguard nuclear weapons-grade fissile materials to the highest standards in order to prevent access by terrorists or other states, decrease and ultimately end the use of highly enriched uranium in civilian reactors, and strengthen national and international export controls and material security measures as required by United Nations Resolution 1540;
- (F) establish procedures to ensure that a state cannot retain access to controlled nuclear materials, equipment, technology, and components acquired for peaceful purposes or avoid sanctions imposed by the United Nations for violations of the NPT by withdrawing from the NPT, whether or not such withdrawal is consistent with Article X of the NPT;
- (G) implement the disarmament obligations and commitments of the parties that are related to the NPT by--
  - (i) further reducing the size of their nuclear stockpiles (including reserves);
  - (ii) taking all steps to improve command and control of nuclear weapons in order to eliminate the chances of an accidental or unauthorized use of nuclear weapons;
  - (iii) continuing the moratorium on nuclear test explosions, and, for those parties who have not already done so, taking steps to ratify the Comprehensive Test Ban Treaty;
  - (iv) pursuing an agreement to verifiably halt the production of fissile materials for weapons;
  - (v) reaffirming existing pledges to non-nuclear-weapon state members of the NPT that they will not be subjected to nuclear attack or threats of attack; and
  - (vi) undertaking a rigorous and accurate accounting of substrategic nuclear weapons and negotiating an agreement to verifiably reduce such stockpiles; and
- (3) affirms its support for the Proliferation Security Initiative, and urges additional nations to join the Initiative.

# Statement on the 2005 NPT Review Conference and Beyond

# **April 5, 2005**

Thirty-five years ago, the nuclear Nonproliferation Treaty (NPT) set into place one of the most important international security bargains of all time: states without nuclear weapons pledged not to acquire them, while nuclear-armed states committed to eventually give them up. At the same time, the NPT allowed for the peaceful use of nuclear technology by non-nuclear-weapon states under strict and verifiable control.

Over the years, the NPT security framework has led several states to abandon their nuclear weapons ambitions and has made it far more difficult for other non-nuclear-weapon states to acquire the material and technology needed to build such weapons or to avoid detection of a covert nuclear weapons program. The NPT process also has encouraged action on several nuclear arms control initiatives and led the nuclear-weapon states to pledge not to use nuclear weapons against non-nuclear-weapon NPT members, thereby reducing incentives for others to seek nuclear arms for prestige or defense.

Today's security environment requires an even more comprehensive and robust global nonproliferation strategy. The NPT's future success depends on universal compliance with tighter rules to prevent the spread of nuclear weapons, more effective regional security strategies, and renewed progress toward fulfillment of the nuclear-weapon states' NPT disarmament obligations.

We call upon all states-parties to recommit themselves to the legal and political obligations established by the treaty and successive NPT Review Conferences, as well as agree on a specific and balanced program of action to strengthen treaty implementation and compliance.

Since the 2000 Review Conference, the nuclear threat has evolved in dangerous ways and the global nonproliferation system faces difficult challenges. We have seen new and more deadly forms of terrorism, wars, nuclear black markets, states cheating on the NPT, and even one, North Korea, announcing its withdrawal from the treaty. Perhaps today's greatest threat stems from the existing global stockpiles of highly enriched uranium and plutonium, the fissile materials that are the fuel of nuclear bombs. These materials remain far too accessible to terrorists as a result of inadequate security and accounting at nuclear facilities throughout the former Soviet republics and in dozens of other countries.

Another significant concern is that additional countries could acquire the capacity to produce fissile materials and manufacture nuclear weapons under the guise of "peaceful" nuclear endeavors. North Korea may already have manufactured a small nuclear weapons arsenal. Iran may soon have the capacity to produce fissile material for weapons and may do so if current European diplomatic efforts falter. As the NPT has been interpreted,

countries can acquire technologies that bring them to the very brink of a nuclear weapons capability without explicitly violating the agreement, and can then leave the treaty without penalty unless the United Nations Security Council takes action.

Fifteen years after the end of the Cold War, the majority of countries also feel that the five original nuclear-weapon states do not intend to pursue their NPT-related nuclear disarmament commitments. That growing conviction—reinforced by lackluster progress on disarmament—erodes the willingness among certain states in the non-nuclear-weapon majority to fulfill their own treaty obligations, much less to agree to strengthen the regime.

For all these reasons, there are rising doubts about the sustainability of the nonproliferation regime. Nations with ample technological ability to develop nuclear weapons may be reconsidering their political decisions not to do so.

As the United Nation's recent High-Level Panel Report *A More Secure World* concludes: "We are approaching a point at which the erosion of the nonproliferation regime could become irreversible and result in a cascade of proliferation."

The global nuclear threat cannot be reduced without stronger international leadership and cooperation.

Consequently, the United States and other countries should pursue a comprehensive and balanced approach beginning with the 2005 NPT Review Conference. They should:

- 1. Agree to establish more effective controls on technologies that can be used to produce materials for nuclear weapons.
- 2. Expand the ability of the International Atomic Energy Agency to inspect and monitor compliance with nonproliferation rules and standards through existing authority and the Additional Protocol, to which all states should adhere.
- 3. Conduct vigorous diplomacy to halt uranium-enrichment and other sensitive nuclear fuel cycle activities in Iran and dismantle North Korea's nuclear weapons capacity, as well as diplomacy designed to address the underlying regional security problems in Northeast Asia, South Asia, and the Middle East, which would facilitate nonproliferation and disarmament efforts in those regions.
- 4. Accelerate implementation of the nuclear-weapon states' disarmament obligations and commitments, including further reducing the alert status and size of their nuclear stockpiles, permanently barring nuclear test explosions and the production of fissile materials for weapons, refraining from development of new nuclear weapons, and reaffirming existing assurances to NPT non-nuclear-weapon states that they will not be subjected to nuclear attack. These steps would reduce the risk of nuclear war and the allure of nuclear weapons.

- 5. Secure all nuclear-weapons-usable material to the highest standards to prevent access by terrorists or other states by expanding programs to secure and eliminate these materials, halting the use of highly enriched uranium in civilian reactors, and strengthening national and international export controls and material security measures as required by UN Resolution 1540.
- 6. Clarify that no state may withdraw from the treaty and escape responsibility for prior violations of the treaty or retain access to controlled materials and equipment acquired for "peaceful" purposes.

The May 2005 Review Conference is a crucial forum for parties to measure progress—or lack of progress—in implementing their mutual NPT obligations and commitments. It is also an essential opportunity for the parties to demonstrate their political will to make further tangible progress to meet all of the treaty's objectives. The success of the conference should be judged by the ability of the parties to agree on specific, additional steps that will strengthen the treaty regime. The security of the international community demands no less.

Sec. Madeleine K. Albright Alexei G. Arbatov (Russia) Amb. George Bunn Amb. Ralph Earle II Robert J. Einhorn Amb. Robert L. Gallucci Amb. James E. Goodby Rose Gottemoeller Amb. Thomas Graham, Jr. Amb. Robert Grey, Jr. Hon. Lee H. Hamilton Hon. John D. Holum
Hon. Spurgeon M. Keeny, Jr.
Jessica Mathews
Sec. Robert S. McNamara
Sec. William J. Perry
Lt. Gen. Robert E. Pursley (USAF Ret.)
Sen. Douglas Roche (Canada)
Amb. Henrik Salander (Sweden)
Hon. Lawrence Scheinman
Amb. Wendy R. Sherman

#### Co-Chairs

Joseph Cirincione, Carnegie Endowment for International Peace Daryl G. Kimball, Arms Control Association

#### **ATTACHMENT 3**

# NPT Review Conference Recommendations from *Universal Compliance*

The following recommendations, from the Carnegie report *Universal Compliance, a Strategy for Nuclear Security,* are particularly amenable to promotion through the NPT Review Conference in New York this May.

# Urge changes/clarification of NPT withdrawal process.

Adopt resolutions through the UN Security Council to hold states that withdraw from the NPT responsible for violations of the Treaty, and prohibit their continued use of materials and facilities acquired while party to it.

# Encourage alternative approaches to the international fuel cycle.

Seek an internationally endorsed ban on the production of HEU and a decades-long moratorium on the separation of additional weapon-usable plutonium. Aggressively pursue proliferation-resistant fuel cycle concepts that avoid plutonium separation.

Provide guaranteed, economically attractive fuel services to states that do not enrich uranium or reprocess plutonium, and consider ways to place existing facilities under new institutional controls.

# Reaffirm or update the "13 Steps" disarmament benchmarks.

Reaffirm and act to implement the thirteen steps agreed to in 2000, or negotiate and implement similar disarmament steps.

# Urge production of disarmament "White Papers".

To demonstrate commitment to disarmament, the nuclear weapon states and states with stocks of fissile materials should publish white papers detailing how they could dismantle their nuclear arsenals or account for and securely store all of their fissile materials in a verifiable manner as would be required in a world without nuclear weapons.

# Make the IAEA Additional Protocol mandatory.

Make the IAEA Additional Protocol a condition of supply for all Nuclear Supplier Group transfers

#### Promote transparency in nuclear commerce.

Reform existing export control regime operations by requiring notices of all sensitive exports, moving away from consensus rule making, establishing cooperative review of export control implementation, and considering penalties within export control systems for noncompliance.

# Promote voluntary codes of conduct.

Pursue voluntary codes of conduct and related measures with investment, banking, and manufacturing firms to discourage and prevent nuclear trafficking.

Back accelerated global "Clean-Out".

Accelerate and increase funding for the Global Threat Reduction Initiative to secure and relocate vulnerable nuclear materials worldwide within four years.